

ACTION

§ 1215.5

Region V—Chicago, Illinois (Illinois, Indiana, Iowa, Michigan, Minnesota and Wisconsin)

Region VI—Dallas, Texas (Arkansas, Kansas, Louisiana, Missouri, New Mexico, Oklahoma and Texas)

Region VIII—Denver, Colorado (Colorado, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming)

Region IX—San Francisco, California (American Samoa, Arizona, California, Guam, Hawaii and Nevada)

Region X—Seattle, Washington (Alaska, Idaho, Oregon and Washington)

ACTION also maintains offices in most States, usually in the State capital.

These field offices are not responsible for maintaining indexes, reading rooms, or records or documents other than those created and maintained in the normal course of the official business of such offices.

§ 1215.5 Record request and response procedures.

(a) *How made and addressed.* Requests under the Act for access to ACTION records must be in writing, and must either be mailed or hand-delivered to the FOIA Officer, 1100 Vermont Avenue NW., Washington, DC 20525. All such requests, and the envelopes in which they are sent, must be plainly marked "FOIA Request". Hand-delivered requests will be received between 8:30 a.m. and 5 p.m., Monday through Friday, except on official holidays.

(b) *Agreement to pay fees.* The filing of a request under this subpart shall be deemed to constitute an agreement by the requester to pay all applicable fees under § 1215.7 of this part, up to \$25, unless a waiver of fees is sought in the request letter. When filing a request, a requester may agree to pay a greater amount, if applicable.

(c) *Request must adequately describe the records sought.* A request must describe the records sought in sufficient detail to enable Agency personnel to locate the records with reasonable effort. A request shall be regarded as fulfilling this requirement if it enables the Agency to identify responsive documents without unreasonable burden to or disruption of Agency operations. Persons wishing to inspect or secure copies of records should describe and

identify such records as fully and as accurately as possible. Among the kinds of identifying information which a requester may provide are the following:

(1) The unit or program of the Agency which may have produced or may otherwise have custody of the record, e.g., VISTA (Volunteers In Service To America), RSVP (Retired Senior Volunteer Program), FGP (Foster Grandparent Program);

(2) The specific event or action, if any, to which the record pertains;

(3) The date of the record, or the time period to which it refers or relates;

(4) The type of record (e.g., application, contract, grant or report);

(5) The name(s) of Agency personnel who may have prepared or been referenced in the record; and

(6) Citation to newspapers or other publications which refer to the record.

(d) *Initial processing.* Upon receipt of a request for Agency records, the FOIA Officer will make an initial determination as to whether the request describes requested records with sufficient specificity to determine the office of the Agency having custody of any responsive records. If so, upon making such initial determination, he/she shall refer such request to the head of the custodial office. The office head shall promptly ascertain whether the description of record(s) requested is sufficient to permit a determination as to existence, identification, and location. The FOIA Officer will provide FOIA guidance and assistance to the ACTION staff.

(e) *Insufficiently identified records.* On making a determination that the description contained in the request does not sufficiently describe a requested record, the FOIA Officer shall promptly so advise the requester in writing and by telephone if possible. The FOIA Officer shall provide the requester with appropriate assistance to help the requester provide any additional information which would better identify the record.

The requester may submit an amended request providing the necessary additional identifying information. Such a request shall be deemed to have been received by the Agency on the date it receives the amended request.

(f) *Release, of record; denial and right to appeal.* Upon receipt of a request specifically identifying existing Agency records, the Agency shall, within ten working days, either grant or deny the request in whole or in part, as provided in this subpart. Any notice of denial in whole or in part shall also inform the requester of his/her right to appeal the denial, in accordance with the procedures set forth at § 1215.9 below.

If the FOIA Officer determines that a request describes a requested record sufficiently to permit its identification, he/she shall make it available unless he/she determines, after consultation with the General Counsel, as appropriate, to withhold the record as exempt from mandatory disclosure under the Act.

(g) *Form and content of notice granting a request.* The Agency shall provide written notice of a determination to grant a request. Such notice shall describe the manner in which the record will be disclosed, whether by providing a copy of the record to the requester or by making the record available to the requester for inspection at a reasonable time and place. The procedure for inspection shall not unreasonably disrupt the operations of the Agency. The Agency shall inform the requester in the notice of any fees charged in accordance with the provisions of § 1215.7 of this part.

(h) *Form and content of notice denying a request.* The Agency shall notify a requester in writing of the denial of a request in whole or in part. Such notice shall include:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reason or reasons for the denial, including the exemption or exemptions under the Act on which the Agency has relied in denying the request, and a specific explanation of the manner in which the exemption or exemptions apply to each record withheld; and

(3) A statement that the denial may be appealed under § 1215.9 of this part, and a copy of that section.

§ 1215.6 Time limits and extensions.

(a) The time limits specified for the Agency's initial response in § 1215.5, and for its determination on an appeal

in § 1215.9, are mandatory, and a person requesting records shall be deemed to have exhausted his/her administrative remedies with respect to such request in the event the Agency fails to comply with the applicable time limits in accordance with this section.

(b) The time limits specified for the Agency's initial response in § 1215.5, and for its determination on an appeal in § 1215.9, may be extended by the Agency upon written notice to the requester which sets forth the reasons for such extension and the date upon which the Agency will respond to the request. Such extension may be applied at either the initial response stage or the appeal stage, or both, provided the aggregate of such extensions shall not exceed ten working days. Circumstances justifying an extension under this subpart may include the following:

(1) Time necessary to search for and collect requested records from field offices of the Agency;

(2) Time necessary to locate, collect and review voluminous records responsive to a single request; or

(3) Time necessary for consultation with another agency having an interest in the request; or among two or more offices of ACTION which have an interest in the request; or with a submitter of business information having an interest in the request.

§ 1215.7 Schedule of fees.

(a) It is the policy of ACTION to encourage the widest possible dissemination of information concerning the programs under its jurisdiction. To the extent practicable, its policy will be applied under this part so as to permit requests for inspection of copies of records to be met without substantial cost to requesters.

(b) Request processing charges will be determined by category of request, as follows:

(1) *Commercial use requests.* When a request for records is made for commercial use, charges will be assessed to cover the costs of searching for, reviewing for release, and reproducing the records sought.

(2) *Requests for educational and non-commercial scientific institutions.* When a